

REMARKS

The Office action mailed January 28, 2004 has been carefully reviewed, along with the references cited therein. In the Office action, the Examiner rejected claims 1-3, 6-10, 12, 15-17 and 20 under § 102(b) as being anticipated by U.S. Patent No. 4,286,573 to Nickel. The Examiner objected to claims 4, 5, 11, 13, 14, 18 and 19 as being dependent upon a rejected base claim. He did, however, indicate that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and intervening claims. Applicant appreciates the indication of allowable subject matter.

In this amendment, Applicant has amended claims 1 and 5. Applicant has also cancelled claim 4 and added new claim 21.

Claim 1 has been amended to include the limitation of original claim 4, which was indicated as including allowable subject matter. Accordingly, claim 1 and those depending from it, i.e. claims 2, 3, 5 and 6 are deemed allowable. Claim 5 was amended so that it now depends from claim 1.

Applicant respectfully submits that Nickel does not anticipate claim 7 because neither FIG. 1 nor FIG. 2 in Nickel discloses the limitations recited in claim 7. FIG. 1 in Nickel fails to disclose a sealing member including a post and FIG. 2 fails to disclose a cage. In FIG. 1, the cage 15 retains the ball 14. In FIG. 2, the rod 18 and catch 16 retain the sealing member 17. The cage obviates the need for the rod and catch and vice versa. Accordingly, no motivation exists to modify the embodiments such that one embodiment would read on claim 7. Therefore, claim 7 and those claims depending from it, i.e. claims 8-14 define over Nickel.

Applicant respectfully submits that Nickel also fails to anticipate claim 15. The Examiner cites to column 3, lines 44-51 to argue that the catch 16 disclosed in Nickel inherently restricts rotational movement in all axes. That portion of the specification simply recites that the "catch 16 is of a diameter to engage the inner annular end 22 of nipple 10 to limit movement of sealing member 17 from valve seat 21 and retain it within the outlet piping system through rod 18 while being of a construction to permit flow of hot water therethrough." Nowhere does the specification disclose restricting rotational movement.

Assuming a first axis to be along the longitudinal axis of the outlet pipe 12 and the remaining two perpendicular axes to be in a plane normal to the longitudinal axis,

the catch 16 in Nickel simply restricts the movement of the sealing member along the longitudinal axis. Assuming that the catch 16 engages the inner annular end 22 so that rotation about the longitudinal axis is restricted, an assumption that Applicant is not willing to make, there is still nothing to restrict rotational movement about one of the remaining two axes. Accordingly, claim 15 and those depending from it, namely 15-20, patentably define over Nickel.

Claim 21 has been added to the application to better protect the invention. Claim 21 is similar to claim 7 in that it recites a cage and a seat. Claim 21 recites "a sealing member including a tail portion." Claim 21 patentably defines over the cited references for the reasons similar to those given for the patentability of claim 7.

In view of the above, it is submitted that claims 1-3 and 5-21 are in condition for allowance. Early notice to that effect is earnestly solicited.

Respectfully submitted,

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April 6, 2004
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